

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of K.D.S., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MELISSA DOBBS SMITH,

Respondent-Appellant,

and

DAVID SMITH,

Respondent.

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UNPUBLISHED

April 12, 2002

No. 234376

Midland Circuit Court

Family Division

LC No. 99-000398-NA

Before: Cavanagh, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Respondent Melissa Dobbs Smith appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(b)(i), (b)(ii), (c)(i), (g), and (j). We affirm.

Respondent argues that the trial court erred in finding that there were statutory grounds to terminate her parental rights. We disagree. The petitioner bears the burden of proving at least one statutory basis for termination by clear and convincing evidence. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review the trial court's factual findings for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with the definite and firm conviction that a mistake has been made. *Id.* Deference is accorded to the trial court's assessment of the credibility of the witnesses before it. *Id.* We are satisfied from our review of the record that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.

Respondent also argues that the trial court clearly erred in finding that termination of her parental rights was in the minor child's best interests. We disagree. When one or more grounds

for termination is proved by clear and convincing evidence, the trial court must terminate parental rights unless it finds, from the whole record, that termination is clearly not in the best interest of the child. MCL 712A.19b(5); *In re Trejo, supra* at 350-351. Here, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. On the contrary, the record reveals that, at the time of the termination hearing, the minor child had been in foster care for over a year and one-half and was in need of permanency. In addition, the child had been doing much better since being removed from respondent's custody, including that her affect had improved, she ceased being as aggressive as before, and she had gained ground with her initial learning problems. Thus, the trial court did not clearly err in terminating respondent's parental rights to the minor child.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ David H. Sawyer  
/s/ Peter D. O'Connell